IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23536 of 2001

Between:

V.V. Rangaiah s/o Venkanna,

Age 41 years, occu: Secretary, Doramamidi Primary Agril. Cooperative Society Ltd.,

Buttaigudem Mandal, West Godavari District

..... PETITIONER

AND

1. Govt. of Andhra Pradesh, rep. by its Secretary,
   Cooperation Department, Secretariat, Hyderabad.
2. District Coop. Officer, Eluru, West Godavari District.
3. The Deputy Registrar of Coop. Societies, Kovvur,
   West Godavari District.
4. The Doramamidi Primary Agrl.Coop.Society Ltd.,
   Doramamidi, Kovvur, West Godavari Dist.
5. A.P. Cooperative Tribunal,
   Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of writ of Certiorari quashing the orders passed by the 54h respondent in O.A. No. 13/1996 dated 17.4.2001 and set aside the same with consequential permission to the petitioner to prefer an appeal against the surcharge orders dated 31.10.1995 pertaining to Rs.1,28,656.95 and also the surcharge orders dated 31.10.1995 pertaining to

Rs.47,146.32 afresh and pass such other order or orders as it may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.V.AJAYAKUMAR

Counsel for the Respondent No.: GP FOR AGRICULTURE

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 23536 of 2001

O R D E R:

The present writ petition is filed to quash the order passed by the 5th respondent in O.A.No. 13 of 1996 dated 17.4.2001.

Heard the learned counsel for both sides and at their request the matter is taken up for final disposal.

The 1st respondent in its proceedings dated 31.10.1995 in Rc.No. 2785/94D ordered to recover an amount of Rs.47,146.32ps. together with interest at 10% per annum and another sum of Rs.1,28,656.95ps. from the petitioner and another as they are said to have committed certain irregularities in the office of the respondent-Society. Against one such order, an appeal was preferred before the Cooperative Tribunal, Vijayawada and the Tribunal dismissed the said appeal. Questioning the same, the present writ petition is filed.

Learned counsel for the petitioner vehemently contended that the respondent-authorities have issued two surcharge proceedings dated 31.10.1995 where under one proceedings relates to fixing of liability on petitioner and another and the other surcharge proceedings have been issued fixing the liability on the petitioner and therefore both the orders suffer from serious infirmities. He also contended that the Tribunal has not correctly adverted to the point

involved and has not properly appreciated the material available on record and confirmed the surcharge proceedings. Hence, he prays to set aside the same.

On the other hand, the learned counsel for the respondents contended that the orders in Rc.No.2785.94D dated 31.10.1995 were issued under Section 60 (1) of the A.P. Cooperative Societies Act, 1964 (for short, 'the Act'). In respect of the affairs of the Doramamidi Primary Agricultural Cooperative Society Limited, an enquiry was ordered under Section 52 of the Act. The Sub-Registrar, Kovvur was authorised to conduct inspection and he submitted a report dated 4.7.1995. According to that report, the petitioner herein and one P. Satyanarayana – Ex-President of the Society – misappropriated the amount of Rs.1,28,856.95ps. and therefore they were jointly and severally responsible for that amount. A surcharge notice was given to both the persons for which they gave a reply. As the reply was not satisfactory, the proceedings dated 31.10.1995 were issued directing the petitioner and another to pay an amount of Rs.1,28,856.95ps. together with interest at 10% per annum. On the same day another surcharge proceedings has been issued in respect of the present petitioner. The allegation is that he has taken irregular advance from the society funds and caused loss to the Society. Therefore, the petitioner was directed to pay an amount of Rs.47,146.32ps. together with interest at 10% per annum. One surcharge proceedings relates to misappropriation of the society funds and another surcharge proceedings relates to irregular advance taken by the petitioner from the funds of the Society. So, both these proceedings are distinct and separate and cannot be linked with each other.

The contention raised by the learned counsel for the petitioner is that he is not liable to pay the amount of Rs.43,146.32ps. in pursuance of the Circular Rc.No.62520/98-K2 dated 29.9.1999 of the Registrar of Cooperative Societies, Hyderabad. The said circular is not placed before the learned Judge of the Cooperative Tribunal. Even the explanation submitted by the petitioner in pursuance of the

surcharge proceedings has not been filed to know the stand taken by the petitioner. The surcharge proceedings have not been challenged specifically that they were passed without observing the principles of natural justice or the authority concerned has not applied its mind properly in issuing the two notices. Therefore, this court is of the considered view that upon proper appreciation of the material on record the learned Cooperative Tribunal passed the impugned order, which does not suffer from any legal infirmities.

There are absolutely no grounds to interfere with the impugned order. The writ petition is totally devoid of merit and it is accordingly dismissed at the stage of admission. No costs.

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K.C. Bhanu, J.

Dt. –07—2004.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Govt. of Andhra Pradesh, rep. by its Secretary,
   Cooperation Department, Secretariat, Hyderabad.
2. District Coop. Officer, Eluru, West Godavari District.
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5. A.P. Cooperative Tribunal,
   Vijayawada, Krishna District.

6. 2CCs to G.P. for Agriculture

7. 2CD copies